

SENATE BILL REPORT

SB 6390

As Reported by Senate Committee On:
Human Services & Corrections, February 5, 2014

Title: An act relating to forming the juvenile sentencing task force to review and make recommendations regarding juvenile sentencing matters.

Brief Description: Forming the juvenile sentencing task force to review and make recommendations regarding juvenile sentencing matters.

Sponsors: Senators Darneille and Chase.

Brief History:

Committee Activity: Human Services & Corrections: 1/30/14, 2/05/14 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6390 be substituted therefor, and the substitute bill do pass.

Signed by Senators O'Ban, Chair; Pearson, Vice Chair; Darneille, Ranking Member; Hargrove and Padden.

Staff: Shani Bauer (786-7468)

Background: There are several ways by which a juvenile accused of committing an offense can be prosecuted in adult court: discretionary decline hearing; mandatory decline hearing; and statutory exclusion.

Discretionary Decline Hearing. The prosecutor or the juvenile may make a motion requesting that the juvenile be transferred to adult court. The court will set the matter for a hearing on whether the juvenile court should decline jurisdiction in the case. The court may also, on its own motion, set the matter for a decline hearing.

Mandatory Decline Hearing. A hearing on whether a juvenile should be prosecuted in adult court must be held in the following instances:

- the juvenile is 16 or 17 years old and is alleged to have committed a class A felony or an attempt, solicitation, or conspiracy to commit a class A felony;

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- the juvenile is 17 and is alleged to have committed assault in the 2nd degree, extortion in the 1st degree, indecent liberties, child molestation in the 2nd degree, kidnapping in the 2nd degree, or robbery in the 2nd degree; or
- the juvenile is alleged to have committed an escape during the time that the juvenile is serving a minimum juvenile sentence to age 21.

After the decline hearing, the court may order that the case be transferred to adult court if it finds that adult court prosecution would be in the best interest of the juvenile or the public.

Statutory Exclusion. Adult court jurisdiction is automatic when a juvenile is 16 or 17 years old on the date the alleged offense is committed and the alleged offense is one of the following:

- a serious violent offense;
- a violent offense and the juvenile has a criminal history consisting of one or more prior violent offenses, two or more prior violent offenses, any class A felony, any class B felony, or vehicular assault or manslaughter in the 2nd degree, all of which must have been committed after the juvenile's 13th birthday and prosecuted separately;
- robbery in the 1st degree, rape of a child in the 1st degree, or a drive-by shooting;
- burglary in the 1st degree committed on or after July 1, 1997, and the juvenile has a criminal history of one or more prior felony or misdemeanor offenses; or
- any violent offense committed on or after July 1, 1997, and the juvenile is alleged to have been armed with a firearm.

Once the adult criminal court has exerted jurisdiction over a juvenile, that person remains an adult for a future criminal offenses unless the juvenile was convicted of a lesser charge, was acquitted in the previous adult court prosecution, or is not otherwise under adult court jurisdiction.

In the last few years, laws that apply harsh adult sentences to juvenile offenders have come under fire. Recent research on brain development has led scientists to conclude that a juvenile brain is not fully developed until age 25. Further, a series of United States Supreme Court cases has invalidated certain life sentences applied to juveniles: *Graham v. Florida*, 560 U.S. 48 (2010), barring life without parole for minors who commit a crime that does not involve the death of the victim; and *Miller v. Alabama*, 567 US ____ (2012), invalidating life without parole as a mandatory penalty for murder by a minor. Finally, the Washington State Institute for Public Policy published a report in December 2013 concluding that recidivism is higher for youth who are automatically declined jurisdiction in the juvenile court.

Summary of Bill (Recommended Substitute): The Legislature must convene a task force to examine juvenile sentencing reform. Membership is prescribed, including four legislative members. The task force must undertake a thorough review of juvenile sentencing as it relates to the intersection of the adult and juvenile sentencing systems, and make recommendations for reform that promote improved outcomes for youth, public safety, and taxpayer resources. The review must include, but is not limited to the following:

- the process and circumstances for transferring a juvenile to adult jurisdiction, including discretionary and mandatory decline hearings and automatic transfer to adult jurisdiction;

- sentencing standards, term lengths, sentencing enhancements, and stacking provisions that apply once a juvenile is transferred to adult jurisdiction; and
- the appropriate custody, treatment, and resources for declined youth who will complete their term of confinement prior to reaching age 21.

The expenses of the task force must be paid jointly by the Senate and the House of Representatives. The task force must report its findings and recommendations to the Governor and the appropriate committees of the Legislature by December 1, 2014.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): In addition to other tasks already outlined, the task force must review the appropriate custody, treatment, and resources for declined youth who complete their term of confinement prior to reaching age 21. Task force membership is adjusted.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This bill is to address the Halloween case involving five juveniles who in the course of 72 minutes encountered a group of other youth and took several pieces of candy and a mask. Two of those youth were auto-declined and ultimately given a sentence of 27 years and 31 years because one of the youths had a gun. These were young African American kids in foster care. More discussions about juvenile justice reform are needed. The concept of this task force is to bring legislative members together with an open table concept. This is an era of ever decreasing youth crime. Washington has made great strides in juvenile justice, but there is still work to be done for juveniles transferred to adult jurisdiction. Youth have an enormous capacity for change and should be given the resources they need to do so. This is a great time to discuss this issue given juvenile brain research, recent Supreme Court cases, and the recent Washington State Institute for Public Policy (WSIPP) study. Juveniles need to be held accountable, but it deserves discussion from multiple angles, including the victim, prosecutors, and juvenile rehabilitation.

CON: The focus of the bill is exclusive adult jurisdiction. The Legislature took certain violent crimes into consideration and decided that it was appropriate for youth under the age of 21 to be subject to adult jurisdiction. WSIPP did not find a causal connection between increased recidivism and the transfer to adult jurisdiction. The membership of the committee is unbalanced with eight juvenile justice advocates and zero victim advocates. The task force does not appear to be open to an objective view of this topic. The task force should not presuppose the answer. The driver behind this issue is auto-decline and therefore the bill should be restricted to that issue. There are parts of the juvenile justice system that are working well. Let us not try to fix something that is not broken. The Sentencing Guidelines Commission is a more appropriate entity to review this issue.

OTHER: The task force should be expanded to include not just juveniles at the top end of the system, but some examination of those at the bottom end who are minor offenders. The Legislature often hears about the collateral consequences of a juvenile record. There should be more ways to keep a minor offender out of the juvenile system to avoid these collateral consequences.

Persons Testifying: PRO: Lonnie Johns-Brown, Center for Children and Youth Justice; Nick Allen, Columbia Legal Services; Travis Stearns, WA Defender Assn.; Eric Trupin, University of WA.

CON: Tom McBride, WA Assn. of Prosecuting Attorneys; Don Pierce, WA Assn. of Sheriffs and Police Chiefs.

OTHER: Rowland Thompson, Allied Daily Newspapers of WA.